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RUEHAO/AMCONSUL CURACAO 0872
RUEHGL/AMCONSUL GUAYAQUIL 0518
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USDOC FOR ITA MARGARET KESHISHIAN

E.O. 12958: N/A
TAGS: ECON KIPR VE
SUBJECT: BRV INFORMATION TECHNOLOGY DRAFT LAW AND THE
OPEN-SOURCE SOFTWARE DEBATE

This message is sensitive but unclassified, please treat
accordingly.

Summary

¶1. (U) As part of an ongoing effort by the BRV to promote
open-source software (OSS) as a "revolutionary" alternative
to profit-driven commercial software, the National Assembly
has proposed a draft Information Technology Law. The
legislation would require government entitites at all levels
(plus their contractors and anyone receiving public funds) to
use OSS. Currently, most of the BRV uses commercial
software, whose largest provider in Venezuela is Microsoft.
IBM is the country's largest provider of OSS. Deputy Luis
Tascon, who was hosted by Microsoft in the U.S. earlier this
year, is fighting the mandatory OSS provisions in the law.
Felipe Perez, an influential Chavista ex-minister (and owner
of a Linux distribution company) is one of the main
proponents of the law. Fighting between the two factions has
stalled the drafting of the final version. End summary.

"Revolutionary" Software

¶2. (U) The BRV began a trend years ago to favor open-source
software (OSS) over commercial software. The rationales for
the move are the perception that intellectual property rights
are against the "revolution," that open-source software is
better for the consumer, and that it would lower costs for
the BRV. In 2004, President Chavez issued a decree requiring
all executive-branch agencies to migrate their operating
systems to OSS. However, implementation has been lackluster,
and often users violate the terms of the software (such as
making open modifications or using without license).
Microsoft is the top provider of commercial software
(Windows) in Venezuela, while IBM is the main provider of OSS
(Linux).

¶3. (U) The Information Technology draft law (Ley de
Infogobierno) was passed in first discussion in the National
Assembly on August 2005. It mandates exclusive use of OSS in
all government entities (from the executive to municipal

government), the Central Bank, public universities, companies who receive public funds or are directed by a government employee (at any level), and companies or persons who provide temporary services or goods to the government or to government employees. It also requires migration of existing platforms to OSS, establishes criminal sanctions for non-compliance, and creates a National Commission for Information Technology (CONATI) that would have confidentiality agreements with software providers.

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Commercial v. Open-Source

¶4. (U) In April 2006, the National Assembly established a working group, led by Deputy Luis Tascon, to review the draft law. The group was comprised of private sector companies, business chambers, labor groups, PDVSA, OSS groups, and universities. Two camps emerged. One group, under Tascon, has pushed to amend the law to allow each government entity to choose between OSS and commercial software according to their needs. Tascon recently attended the Global Leadership Forum in Washington, DC as a guest of Microsoft, where he met Bill Gates. (Comment: It is ironic that Tascon, who is infamous for publicly disseminating personal information on those who voted against Chavez, would champion licensed software. End Comment).

¶5. (U) The other group is comprised of proponents of OSS, led by Felipe Perez Marti, President of the Venezuelan Association of Open-Source Software (and former Minister of Planning). They strongly favor using OSS exclusively, as stipulated by the draft law. Perez, the original drafter of

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the pro-OSS 2004 decree, is the owner of SOLVE (Free Software of Venezuela), a Linux distributor, whose board (known as "Los Felipillos") is composed of many BRV leaders, reportedly including the Minister of Education. According to Microsoft, Perez's company is positioned to provide the BRV with Linux and all the technical support. His company would exponentially benefit from mandated government use of OSS, which is currently minimal. IBM's Venezuela operations manager noted that they have great relations with the public sector (their largest client), but expressed concern that the BRV wants to buy the software but not agree to maintenance contracts with IBM.

¶6. (U) During a May 5 working group meeting, Perez publicly called Tascon a "traitor." Tascon expelled him from the room and then declared he would finish drafting the law behind closed doors due to the "impossibility of consensus" between commercial software providers and OSS groups. The media has largely portrayed this as Tascon barring Perez for personal reasons.

Conspiracy Theories

¶7. (SBU) Microsoft's General Manager, Gonzalo Fernandez (protect), showed EconOff an internal PDVSA memo which claimed that all U.S. software companies had a "back door" mechanism whereby the U.S. government could at any time access information, citing the supposed CALEA Law (United States Law of Assistance in Communications for Security Systems). The memo made a claim that the USG simultaneously shut down all Microsoft operating systems in Iraq before attacking, and then detailed various NSA and CIA hacker programs. The memo concludes that the BRV should not contract any services from American providers.

Comment

¶8. (SBU) If the law passes in current form, the provisions
for mandatory use of OSS will have grave repercussions for
BRV operations. By nature, OSS requires code sharing, and
could pose security concerns for important BRV institutions,
such as PDVSA, EDELCA (the electric company), or CADIVI (the
Foreign Exchange Control Authority). Though OSS software has
only a one-time license fee -- and therefore seems more
cost-effective -- critics claim the system can be less-user
friendly and requires frequent technical support (which can
often be costlier than licensing). According to Microsoft,
no government in the world has successfully used Linux for
large operations (Brazil and Cuba reportedly attempted this,
but then abandoned the effort). The issue of BRV software
has become political -- with PQrez trying to bill OSS as a
"revolutionary" software that would promote endogenous
development, and Tasc"n siding with commercial software
providers by promoting "neutrality" in selection of operating
systems. Most National Assembly deputies are uninformed on
the issue and though the law was to be presented in second
session in early May, there has been no news as of yet. END
COMMENT.
WHITAKER